

MITIGATION MONITORING AND REPORTING PROGRAM

NORTH SIXTH STREET RESIDENTIAL PROJECT

File No. C15-062, H15-055

April 2016



PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

On _____, the Director of Planning accepted the Addendum to the Downtown Strategy 2000 Final Program Environmental Impact Report (FPEIR), the 2011 Envision San José 2040 General Plan FPEIR, and the 2015 Envision San José 2040 Supplemental EIR for the North Sixth Street Residential Project (Addendum), which will allow development of a 0.74-acre property on the southwest corner of East St. John Street and North Sixth Street in the Downtown Planning Area of San José (APNs: 264-32-001, 264-32-042, 264-32-086, and 264-32-087) with a 10-story, 206-unit residential building. The EIR Addendum concluded that the implementation of the project could result in significant impacts on the environment and mitigation measures were incorporated into the proposed project to ensure the impacts will be less-than-significant. The mitigation measures will be included as conditions of project approval. This Mitigation Monitoring and Reporting Program identifies the mitigation measures required for the project, responsibility for monitoring compliance, method of compliance, and timing of compliance.

In order to ensure the proposed project would not result in any new or more significant impacts than were previously identified in the certified Downtown Strategy 2000 FPEIR, the 2011 Envision San José 2040 General Plan FPEIR, and the 2015 Envision San José 2040 Supplemental EIR, the applicant must agree to include and implement the mitigation measures contained herein before the Addendum can be accepted in accordance with the CEQA Guidelines.

I, _____, the applicant, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an initial study and Addendum for my proposed project. I understand that these Mitigation Measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level, where feasible.

This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

Applicant's Signature _____

Date _____

MITIGATIONS		MONITORING AND REPORTING PROGRAM				
		Applicant Documentation of Compliance			Lead Agency Documentation of Compliance	
Adopted Mitigation Measures	Responsibility for Implementation	Method of Compliance Or Mitigation Action	Timing of Compliance	Monitoring Reporting Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY						
<p>Impact AQ-1: The project would generate dust and other emissions during construction activities that would affect nearby sensitive receptors.</p> <p>Mitigation Measure AQ-1: During construction activities, the following measures shall be implemented:</p> <ul style="list-style-type: none"> All off-road equipment greater than 25 horsepower and operating for more than 20 total hours over the entire duration of construction activities shall meet the following requirements: <ul style="list-style-type: none"> Where access to alternative source of power are available, portable diesel engines shall be prohibited; All off-road equipment shall have: <ul style="list-style-type: none"> Engines that meet or exceed either U.S. Environmental Protection Agency or California Air Resources Board (ARB) Tier 2 off-road emission standards, and Engines that are retrofitted with an ARB Level 3 Verified Diesel Emissions Control Strategy (VDECS) Exceptions: <ul style="list-style-type: none"> Exceptions to (a) may be granted if the project sponsor has submitted information providing evidence to the satisfaction of the State Center that an alternative source of power is limited or infeasible at the project site and that the requirements of this exception provision apply. 	Project applicant	All measures shall be printed on all construction documents, contracts, and approved project plans for grading and building permits. Actions shall be followed during grading and construction activities.	Prior to issuance of Grading and Building Permits	PBCE Supervising Environmental Planner	Measures shall be on all construction documents, contracts, and approved project plans for grading and building permits.	The measure shall be implemented for the duration of construction activities.

<p>ii. Exceptions to 1(b)(ii) may be granted if the project sponsor has submitted information providing evidence to the satisfaction of the State Center that a particular piece of off-road equipment with an ARB Level 3 VDECS is: (1) technically not feasible, (2) would not produce desired emissions reductions due to expected operating modes, (3) installing the control device would create a safety hazard or impaired visibility for the operator, or (4) there is a compelling emergency need to use off-road equipment that are not retrofitted with an ARB Level 3 VDECS and the sponsor has submitted documentation to the City that the requirements of this exception provision apply.</p> <p>d. A publicly visible sign shall be posted with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours of a complaint or issue notification. The Bay Area Air Quality Management District's phone number shall also be visible to ensure compliance with applicable regulations.</p> <p>The above construction measures shall be printed on all approved plans for demolition, grading, and building permits to the satisfaction of the Director of Planning, Building and Code Enforcement (PBCE).</p>						
Biological Resources						
<p>Impact BIO-1: Development of the proposed project could impact nesting birds and raptors, if present on-site or in the immediate vicinity.</p> <p>Mitigation Measure BIO-1: The Project shall implement one of the following two measures to reduce impacts to nesting birds and raptors to a less than significant level:</p> <p>a. Avoidance: If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season.</p> <p>b. Preconstruction/pre-disturbance surveys: If this is not feasible to schedule construction between September and December, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between February and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities.</p> <p>i. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be</p>	<p>Project applicant and qualified biologist.</p>	<p>Avoid construction activities during the nesting season.</p> <p>If the nesting season cannot be avoided, a qualified biologist conduct all required preconstruction/pre-disturbance surveys and complete a final report.</p>	<p>Prior to issuance of grading permit and ground disturbance activities.</p>	<p>PBCE Supervising Environmental Planner</p>	<p>Nesting surveys and final report.</p>	<p>Prior to issuance of grading permit. Surveys and reports shall be submitted in coordination with ground disturbance activities.</p>

<p>disturbed by these activities, the ornithologist shall, in consultation with the State of California, Department of Fish & Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet) around the nest.</p> <p>c. Prior to the issuance of any grading permit, the applicant shall submit a report indicating the results of all completed surveys, any designated buffer zones and protection measures to the satisfaction of the Planning, Building and Code Enforcement (PBCE) Supervising Environmental Planner.</p> <p>[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]</p>						
HAZARDS AND HAZARDOUS MATERIALS						
<p>Impact HAZ-1: Construction workers on-site could be exposed to residual migrating contaminants in the soil and groundwater during grading and construction on the site, especially during the excavation of the underground parking.</p> <p><u>Mitigation Measure HAZ-1a</u></p> <p>Prior to issuance of grading permits, the project proponent shall retain a qualified hazardous materials contractor to perform a soil and groundwater investigation (i.e., Phase II Environmental Site Assessment) to determine the levels of contamination from existing automotive uses in the project area and previous uses on the project site (i.e., former drycleaners). Chemicals to be sampled and tested will include, but not limited to: TPH-g, benzene, selenium and chloroform. If the residual contaminants are not detected and/or are found to be below the environmental screening levels for public health and the environment in accordance with Santa Clara County Department of Environmental Health (SCCDEH) or the California Department of Toxic Substances Control (DTSC) requirements, no further mitigation is required.</p> <p><u>Mitigation Measure HAZ-1b</u></p> <p>If residual contaminants are found and are above regulatory environmental screening levels (ESLs) for public health and the environment, the project proponent shall implement appropriate management procedures, such as removal of the contaminated soil and implementation of a Site Management Plan (SMP) under regulatory oversight from the SCCDEH or the DTSC. Copies of the environmental investigations shall be submitted to PBCE Supervising Environmental Planner.</p> <p>The SMP shall be prepared by a qualified hazardous materials consultant. The SMP shall include:</p>	Project Applicant	Performance of soil investigation/ characterization by a qualified professional and submittal of reports to PBCE.	Prior to the issuance of grading, and building permits.	<p>PBCE Supervising Environmental Planner reviews soil investigation</p> <p>If ESL exceeds standards for public health and the environment, SCCDEH or DTSC will have oversight.</p> <p>PBCE Supervising Environmental Planner will receive copies of the environmental investigations, clearance letter from SCCDEH or DTSC.</p>	Soil Investigation Report, and any other environmental investigation reports, if applicable	If applicable, SMP shall be completed and approved prior to the issuance of grading permit and monitoring shall take place during construction.

<ul style="list-style-type: none">• Management practices for handling contaminated soil or other materials if encountered during construction or cleanup activities and measures to minimize dust generation, stormwater runoff, and tracking of soil off-site.• Preliminary Remediation Goals (PRGs) for environmental contaminants of concern to evaluate the site conditions following SMP implementation.• A health and safety plan (HSP) for each contractor working at the site that addresses the safety and health hazards of each phase of site operations that includes the requirements and procedures for employee protection. The HSP will also outline proper soil handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction. <p>The SMP would be prepared and submitted to SCCDEH or DTSC for review and approval prior to issuance of grading permits and commencement of cleanup activities. The approved SMP would detail procedures and protocols for management of soil containing environmental contaminants during site development activities.</p> <p>All measures shall be printed on all construction documents, contracts, and project plans prior to issuance of grading permits.</p> <p>A No Further Action letter (or equivalent assurance) from SCCDEH or DTSC documenting completion of cleanup activities shall be provided to the PBCE Supervising Environmental Planner prior to issuance of grading permit.</p> <p><u>Mitigation Measure HAZ-1c</u></p> <p>Prior to issuance of a grading permit, a groundwater management and dewatering plan shall be developed to protect construction workers if groundwater is encountered, and to meet the permit requirements if groundwater is determined to require treatment prior to discharge to the sewer system. The SCCDEH would be informed of any groundwater contaminants and oversee the groundwater management plan.</p> <p><u>Mitigation Measure HAZ-1d</u></p> <p>A copy of the SMP and any associated environmental investigations shall be provided to the PBCE Supervising Environmental Planner.</p>						
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<p>Impact HAZ-2: Excavation at the site could expose the public or the environment to hazardous materials.</p> <p><u>Mitigation Measure HAZ-2</u></p> <p>Prior to issuance of a grading permit, the project proponent would implement Mitigation Measures HAZ-1 and would be required to provide a monitoring plan to the satisfaction of the PBCE Supervising Environmental Planner.</p>	Project Applicant	Performance of soil investigation/ characterization by a qualified professional and submittal of reports to PBCE.	Prior to the issuance of grading, and building permits.	<p>PBCE Supervising Environmental Planner reviews soil investigation</p> <p>If ESL exceeds standards for public health and the environment, SCCDEH or DTSC will have oversight.</p> <p>PBCE Supervising Environmental Planner will receive copies of the environmental investigations, clearance letter from SCCDEH or DTSC.</p>	Soil Investigation Report, and any other environmental investigation reports, if applicable	If applicable, SMP shall be completed and approved prior to the issuance of grading permit and monitoring shall take place during construction.
Noise						
<p>Impact NOISE-1: Construction of the project could result in vibration impacts to the Trianon theater.</p> <p>Mitigation Measure NOISE-1: Consistent with General Plan Policy EC-2.3, the project will implement the following measures to avoid construction vibration impacts to adjacent buildings:</p> <ul style="list-style-type: none">• Prior to grading permit, the project shall conduct a pre-project crack survey of the Le Petit Trianon theater building west of the site to document existing conditions.• Prior to grading permit, a list of all construction equipment/machinery identifying maximum construction vibration will be provided to the Director of PBCE.• All construction equipment/machinery operating on the project site that can exceed the 0.20 in/sec PPV limit will be at least 50 feet away from the theater during construction and demolition activities.	Project applicant	Submit a report indicating the results of the survey, list of all construction equipment/machinery identifying maximum construction vibration,	Prior to the issuance of grading permit and during construction activity.	PBCE Supervising Environmental Planner and the Public Works personnel.	Public Works personnel reviews and approves report. PBCE Supervising Environmental Planner signs off on report for grading permit	Prior to issuance of grading permit.

<ul style="list-style-type: none">• Ground vibration levels outside these adjacent buildings shall be monitored during construction activities when heavy equipment operates within 50 feet of the buildings to confirm vibration levels are below the allowable level of 0.20 in/sec PPV.<ul style="list-style-type: none">○ Vibration monitoring reports shall be submitted to the Supervising Environmental Planner prior to issuance of occupancy permits.• If construction vibration levels exceed the allowable level, the following procedures will be implemented:<ul style="list-style-type: none">○ The PBCE Supervising Environmental Planner shall be notified immediately.○ A post-construction crack survey shall be completed on the theater.○ A plan for repairs from any cosmetic damage resulting from the project shall be implemented with the approval of the PBCE Supervising Environmental Planner.						
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Source: City of San José. North Sixth Street Residential Development Addendum. April 2016.